United States Patent and Trademark Office

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In re Application of   :
Meyer et al.   :
Application No. 10/538,461   :
PCT No.: PCT/US03/03801   :
Int. Filing Date: 07 February 2003   :   COMMUNICATION
Priority Date: 13 December 2002   :
Atty. Docket No.:60469-215; OT-5043A   :
For: Stepchain Link For A   :
     Passenger Conveyor System   :

This is in response to the declaration of the inventors filed under PCT Rule 4.17(iv), which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 07 February 2003, claimed an earliest priority date of 13 December 2002, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 June 2005. Applicants filed, *inter alia*, the basic national fee on 10 June 2005.

On 14 September 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed under PCT Rule 4.17(iv) (a copy of which was filed on 10 June 2005) reveals that joint inventor Jorg OSTERMEIER is indicated to be "deceased" and that Helene Ostermeier geb. Wagener and Heike Helene Rojahn geb. Ostermeier have signed on his behalf. 37 CFR 1.42 provides in part that

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the

legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.
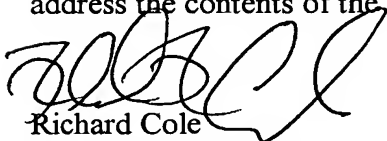
Further examination of the declaration reveals that it properly identifies the international application number to which it is directed. Helene Ostermeier geb. Wagener and Heike Helene Rojahn geb. Ostermeier have signed the declaration in the capacity of "Legal Representative," and the declaration provides their respective citizenship, residence and postal address information. However, it does not provide "the facts which the inventor would have been required to state" in that Jorg Ostermeier's citizenship, residence and mailing address information is not listed. As such, the declaration does not comply with 37 CFR 1.497(b)(2). It is also noted that the declaration nominates Andreas Stuffel, who is not named in the published international application. Accordingly, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.
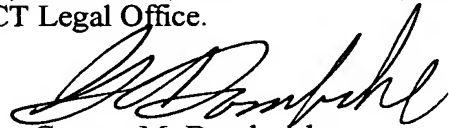
CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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